

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION NO. 30 OF 2003

MRS.JESSUINA EFFIE DE SOUZA AND
ANR.,

....Petitioners

Versus

MR. JOSE DIAS AND ANR.,

....Respondents

SHRI NIGEL DA COSTA FRIAS, SHRI AGNELO F. DINIZ

Coram:- A.M.KHANWILKAR, J.

Date:- 11th December, 2003

P.C.:

Heard.

I find no reason to interfere in exercise of writ jurisdiction, especially in view of the finding recorded by the Court below in paragraph 5 of the impugned judgment. The Court below on analysing the plaint, has positively found that no damages or compensation is claimed by the plaintiff against the defendant No.3. This finding can be supported on reading paragraph 23 of the plaint. If that is so, the question of application of Section 221 of the Goa Panchayat Raj Act, 1994 will not arise.

Learned counsel for the petitioner, however contends that the relief as couched in the plaint in particular prayer clause (b) claims a Decree in the

sum of Rs.3,00,000/- or such other sum as the Court may deem proper and fit, being damages for relief which according to the petitioner is against all the defendantes which includes defendant No.3 and on that account section 223 is attracted. This submission clearly overlooks the averment made in paragraph 23 of the plaint that the plaintiff was claiming damages only against defendants no.1 and 2.

Understood thus, there is no substance in this petition. Rejected.

At this stage, learned counsel for the petitioner, submits that any opinion expressed in this decision may not influence the Trial Court while deciding issue no.8. Needless to mention that the Trial Court will decide the suit which will include Issue No.8, on its own merit and in accordance with law.

A.M.KHANWILKAR, J.